



# Legislative Research Council

# MINUTES

## Oil and Gas Study Committee

Second Meeting  
2012 Interim  
July 16-17, 2012

Buffalo, South Dakota  
Bison, South Dakota

### **Monday, July 16, 2012**

The second meeting of the 2012 Interim Oil and Gas Study Committee was called to order by Senator Roger Solum, Chair, at 1:00 p.m. (MDT).

The meeting was held with the following members present: Representative Roger Solum, Chair; Senator Tom Nelson, Vice Chair; Senators Ryan Maher, Bruce Rampelberg, Larry Rhoden, and Billie Sutton; and Representatives Spencer Hawley, Charles Hoffman, Betty Olson, Tona Rozum, and Dean Schrempp. Senators Tim Rave and Craig Tieszen and Representatives H. Paul Dennert and Melissa Magstadt were excused.

Staff members present included: Reuben Bezpaletz, Chief Analyst for Research and Legal Services and Fred Baatz, Principal Research Analyst.

(NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council.)

**Approval of Minutes** – Senator Rhoden moved, seconded by Senator Rampelberg to approve the minutes of the June 12, 2012, meeting. The motion was unanimously approved by voice vote.

**Chair Roger Solum** expressed gratitude to the local officials for their assistance in hosting the committee in Buffalo. Representative Solum invited the public who are experiencing oil exploration and development in Harding County to share their comments, concerns, and observations.

**Senator Bill Bowman**, North Dakota state senator from Bowman, North Dakota, stated it is necessary to educate the Legislature and the general public about the impacts of oil development to local governments. In North Dakota, about one-sixth of the revenue received by the state through its severance tax system is allocated to the counties, cities, and schools within the oil field area. Additional impact money may be applied for from the state.

Senator Bowman explained that when an oil well is being drilled approximately 2,000 vehicles enter that site during that phase. It takes about twenty-eight days to drill a well and there are over 200 oil rigs currently operating in North Dakota. This means thousands of vehicles, many of them large trucks, in a relatively concentrated area are driving to and from these sites. This leads to degradation of the roads, traffic issues,

accidents, etc. He also mentioned there are social issues related to the oil development, for example child care services.

Senator Rampelberg asked what Legislation has been acted on in North Dakota to address oil development. Senator Bowman described legislation addressing infrastructure needs within the oil field area including law enforcement and ambulance services. Senator Rampelberg also asked about how North Dakota severance tax revenue is allocated. The North Dakota Legacy Fund receives thirty percent of the revenue from oil severance tax and cannot be expended for a period of years.

Senator Rhoden's question concerned what North Dakota has done with severed mineral rights and surface damages. Senator Bowman said a bill was introduced regarding this matter but failed. He suggested that the state and local governments provide the best infrastructure possible to the affected area to lessen the problems faced by local residents and landowners.

Senator Bowman responded to Senator Maher's question concerning state owned mineral rights by saying the revenue was dedicated for all schools in the state.

**Mr. Reuben Bezpaletz** described his memo listing possible partial statutory remedies for surface owners who suffered serious inconvenience and damages from oil and gas exploration (Document #1). He explained to the audience how to provide public testimony to the committee and encouraged everyone to speak.

Mr. Bob Johnson, Harding County Commissioner, explained that most of the revenue received by the county from the mineral severance tax is dedicated to upgrading and maintaining the county roads (Document #2). He also stated oil development has brought back some of the younger generation for employment opportunities in Harding County.

Mr. Ray Gilbert, who ranches south of Buffalo, has twenty-one wells on his ranch. He has a portion of the mineral rights on four wells. Currently, the oil and gas companies are seven months behind in payments for surface damages. He mentioned the Department of Environment and Natural Resources has given the company operating on his ranch a deadline to comply with provisions of their permit. However, there has been no response by the company, which is also in financial trouble.

Mr. Bret Clanton expressed concern on who will clean up these wells and sites if the oil and gas company fails to do so.

Mr. Gary Gilbert said that the state is more interested in the revenue received by the state from mineral severance taxes and other taxes, than ensuring the property where the development occurred is properly managed and reclaimed. He suggested that the state consider requiring the oil exploration companies to use holding tanks which are required by the state of North Dakota instead of the pits currently used in Harding County.

Mr. Scott Besler conveyed to the committee that long-term exposure and issues with oil wells is not adequately addressed for the surface owners. He suggested that there should be long-term payments to the surface owners.

Mr. Roger Gunderson received a small amount for surface damages which will continue to impact the next generation who will receive no damage payments. He responded to Senator Maher's question by saying that land values are affected by the fact that oil development has occurred on the land.

Senator Rhoden asked if there could be a law drafted establishing a relationship between surface damage payments based on the production of severed minerals from the wells. Mr. Bezpaletz discussed the possibility of increasing the tax imposed by the state and allocating a portion of that additional income to surface owners.

Ms. Linda Gilbert expressed that the state gives incentives to companies to explore and develop oil, but does little to assist the surface owners. The state has a relatively low rate of taxation on severed minerals and terms and the conditions offered by state managed mineral interest favor the oil companies. However, the state does not discount the lease arrangements for ranchers who may lease the surface for grazing purposes.

Mr. Bill Vroman inquired why School and Public Lands was leasing land for \$2.00 per acre while the severed mineral rights owners and Harding County were entering leases in the range of \$15.00 to \$17.50 per acre.

Mr. Matt DeBow was concerned about the loss of state revenue because of the favorable terms provided to oil and gas companies.

Mr. Gene Wagner also expressed concern about the royalty payment sought by the state of 12.5% when most other leases were in the 16.75% or 18.75%. Meanwhile the surface owners or lessees of the land deal with the dust, traffic, spill, etc.

Ms. Gail Parfrey suggested the mineral rights should never be allowed to be severed or sold.

Mr. David Smith said the severed mineral rights should be taxed as real property.

Ms. Kathy Glines, Harding County Auditor, responded to a question about the number of oil companies operating in Harding County. She said there are seven companies who are actively working in Harding County.

Mr. Tom Johnson commented on the taxation of nonproducing mineral rights.

Mr. Bob Havla, attorney from Sturgis, summarized some of his experiences concerning abandoned mineral interests.

Ms. Becky Holst, expressed concern about water quality issues attributed to oil development.

Public Testimony ended at 3:00 p.m. after which the committee took a bus tour of several ranches north of Buffalo. The committee visited an oil rig site that was nearing completion of an oil well that was over 8,000 feet deep and was in the process of drilling the horizontal laterals. Oil is either piped out to various central points within the county and then piped to a major pipeline or put into holding tanks and shipped out by truck. The committee observed the impact from roads, pipelines, storage tanks, wells, reclamation sites, etc. to the productivity of range land. The ranchers explained the problems faced from dust, spills, fires, and traffic. The ranchers also explained the difficulties in reestablishing grass in areas with sensitive soil conditions and minimal rainfall. The committee returned to Buffalo at approximately 6:00 p.m.

**July 17, 2012, at Grand Electric Building in Bison, South Dakota**

Representative Solum called the meeting to order at 9:00 a.m. (MDT). He invited the public to discuss their issues, concerns, and opportunism with the committee. He asked Reuben Bezpaletz to give a brief overview of his memo and the process for public testimony.

Reuben Bezpaletz gave an overview of the general purpose of the committee and encouraged the attendees to give public testimony. He said that the committee previously heard public testimony in June regarding the impacts of oil development to surface owners, which led to the committee visiting the Harding and Perkins counties.

Mr. Colle Nash from Grand Rural Electric and West River Telephone read a message from Jerry Reisenauer, the General Manager of Grand Electric Cooperative, Inc. and West River Cooperative Telephone Co. (Document #3). The utility provides service to about one customer for every two square miles of land mass within its service area. They have approximately one meter for every mile of line which is the second most sparsely populated cooperative service area in South Dakota. Approximately sixty-seven percent of the electricity sold by the utility is consumed by the air injection sites in the oil fields. Concern was expressed regarding easements if the utility had to pay for easement to deliver power to the oil companies.

Mr. Lynn Frey told the committee that a test well drilled in the 1980's found gas on his land, however, it was not a sufficient quantity and the well was plugged. In the 1970's and 1980's seismographic exploration was conducted in the area by digging 200 foot wells and a setting off a charge in the wells. These charges may have ruined the quality and supply of water for several wells on his land. The township his ranch is located in consists of sixty percent federal land and the federal government does not assist in the maintenance of roads within the township. Mr. Frey is concerned about who will pay for the road maintenance and improvement if oil is developed on the federal land.

Mr. Don Kraemer, Bison School Superintendent, currently has 19 staff members for 140 students. If oil development occurs, it would bring in more students. Bison School District buses its students and if oil development deteriorates the roads, this may affect the safety of buses on those same roads. Currently the school does not have students that have English as a second language or students with special needs. This could change with oil development. Depending on the size of future development, the

schools' infrastructure may not be sufficient to handle the additional students. This may lead to funding issues in the future.

Mr. Tracy Buer, Perkins County Highway Superintendent, expressed concern about the potential of increased traffic on the county roads. Perkins County highway department is currently understaffed. The county has 551 miles of county roads and approximately 300 miles of secondary roads to manage. The county is not in a position to finance or manage additional road maintenance or improvements.

Mr. Kelly Serr, Perkins County Sheriff, asked if there is a mechanism for state government to assist the county government in financing county employees. If the state provided more highway patrolman to assist with the increased traffic, the county jails and legal system would have to handle the increased work load.

Mr. Steve Willard, offered to assist in obtaining testimony from Ken Luff, who is a wildcatter operating in South Dakota. Over the years Mr. Luff has had some taxation issues with the state and has fostered a good relationship with the surface owners.

### **Committee Discussion, Debate, and Staff Direction**

Representative Solum discussed the location and time frame of the next committee meeting. The committee discussed various options and determined they would prefer to go to Bismarck, North Dakota, for the next meeting to meet with North Dakota Legislators and experts regarding oil development. They also requested another meeting in Pierre to meet with state officials to further discuss oil development issues and matters. The final meeting, most likely after the November election, would be to discuss proposed legislation and recommendations for submittal to the 2013 Legislature.

Representative Hawley suggested that the committee study the adequacy of the energy mineral severance tax and to visit with the oil and gas developers to obtain their input.

Representative Olson recommended that Kathy Glines, the Harding County Auditor, be invited to share the experiences of Harding County at one of the committee meetings.

**SENATOR MAHER MOVED, SECONDED BY REPRESENTATIVE HOFFMAN, THAT THE COMMITTEE MEET IN BISMARCK, NORTH DAKOTA, FOR THE NEXT MEETING TO MEET WITH NORTH DAKOTA LEGISLATORS AND OFFICIALS. The motion passed unanimously by a voice vote.**

### **Adjourn**

**REPRESENTATIVE HOFFMAN MOVED, SECONDED BY SENATOR RHODEN, TO ADJOURN. The motion passed unanimously by a voice vote.**



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